

**EXHIBIT 2**

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

WILLIAM STEVENS,

Plaintiff,

v.

Civil Action No. 04-11938 JLT

ROBERT HOWLAND, et al.,

Defendants.

**AFFIDAVIT OF JOSPEH MURPHY**

I, Joseph Murphy, do on oath depose and state:

1. I am an employee of the Massachusetts Department of Correction (“DOC”) and presently serve as the Deputy Superintendent for the Massachusetts Treatment Center for Sexually Dangerous Persons (“Treatment Center”). I have held this position since January, 2005. Prior to serving as the Deputy Superintendent of the Treatment Center, I worked as the Director of Treatment for the Treatment Center for approximately nine (9) years.

2. As the Deputy Superintendent for the Treatment Center, I supervise the religious programs available at the facility. In particular, I supervise the facilities’ Director of Treatment who has direct responsibility for the Treatment Center religious groups and the four DOC chaplains. The information contained herein is based on my personal knowledge.

3. I am familiar with William Stevens, who is currently under civil commitment to the Treatment Center, and the claims he has raised in his complaint.

4. The Treatment Center houses three populations of adult male sex offenders: (i) persons civilly committed as “sexually dangerous persons” (“SDP’s”) and committed for an indefinite period of one day to life pursuant to G.L. c. 123A; (ii) inmates committed to DOC’s



custody who are participating in DOC's voluntary sex offender treatment program ("SPI's"); and  
(iii) persons awaiting adjudication as SDP's under G.L. c. 123A, §§ 12-14.

5. As a result of the Superior Court's decision in Durfee v. Maloney, Consolidated Suffolk Civil Actions Nos. 98-2523B & 98-3082B, issued in July, 2001, DOC decided to change its management of the Treatment Center to keep SDP's and SPI's separate and apart at all times. On December 10, 2001, a "separate and apart" policy was implemented at the Treatment Center.

6. The implementation of the "separate and apart" management policy necessitated that the two populations be divided for purposes of access to the common areas of the facility (such as the gym, exercise yard, visiting room, religious activities and library), in which they previously had the opportunity to commingle. Where possible, SDP's continue to receive priority in terms of access to the Treatment Center's common areas. The present population of the Treatment Center is 626, with 316 SDPs and 312 SPIs.

7. The DOC recognizes fifteen (15) religions, including Buddhist, Christian Scientists, Greek Orthodox, Hare Krishnas, Muslims, Jehovahs' Witnesses, Jews, Mormons, Native Americans, Protestants, Rastafarians, Quakers, Roman Catholics, Scientologists and Wiccans. The Department provides chaplains who are Catholic, Muslim, Protestant and Jewish for many of its prisons. Presently, the Treatment Center has part-time Catholic, Muslim, and Protestant chaplains on site. However, any Treatment Center resident may meet with and seek counseling with a DOC chaplain, no matter what the denomination.

8. Currently, the Treatment Center residents engage in religious activities for Catholics, Jews, Protestants, Muslims, Native Americans, Jehovah Witnesses, Buddhists and Wiccans. The religious groups meet in the facility's chapel, on the "D" corridor. However, because we must provide separate meeting space for SDP and the SPI residents, the Treatment Center also uses a room on the "B" corridor to accommodate additional religious group

meetings. The dimensions of the "B" corridor therapy room are 16 feet, 9 inches by 10 feet, 4 inches and the dimensions of the Treatment Center chapel are 15 feet, 6 inches by 15 feet, 6 inches. The "B" corridor room is used for religious programs because it provides correctional staff with excellent visibility of the activities held in the room for security purposes. The "B" corridor room is more than sufficient to accommodate the four (4) or (5) Wiccans that generally attend the SDP Wiccan meetings.

9. The Treatment Center provides a schedule of meeting times for the chapel ("D" corridor) and the "B" corridor room. See Attachment A. Generally, the SDPs have access to the chapel and the "B" corridor room on Wednesdays and Fridays and the SPI have access to the rooms on Tuesdays and Thursdays. As noted on the meeting schedules for the chapel and the "B" corridor room, there are no activities in the two rooms Monday through Friday between 11:00 a.m. and 1:00 p.m. because the residents are to be in their cells for count and then go to lunch. Similarly, there are no activities scheduled between 4:00 p.m. and 7:00 p.m. since the residents must be in their cells for count and then go to dinner. Presently the SDP Wiccan group meets on Wednesday and Friday evenings from 7:00 p.m. to 8:40 p.m.

10. The "C" corridor therapy room is used solely for conducting behavior therapy and is not available for use by any religious groups. The dimensions of the "C" corridor therapy room are 16 feet, 6 inches by 11 feet, 6 inches.

11. DOC regulations place strict limits on the type and amount of personal property inmates may keep within their cells. 103 CMR 403.10. The restrictions on personal property are necessary to reduce fire hazards, reduce areas where inmates can secrete contraband, facilitate quicker and more thorough cell searches, and reduce sanitation and housekeeping hazards.

12. In order to process and fairly accommodate the multitude of practices and religious property item requests by inmates, the DOC has developed a Religious Services

Handbook as a reference tool to assist administrators when evaluating inmate religious requests.

The Religious Services Handbook (“Handbook”) was first issued in April of 1999 and is periodically revised.

13. The Handbook includes a section outlining commonly accepted practices for the above-referenced faiths, including information related to Wiccan practices. See Attachment B.

14. The Handbook also outlines approved practices and property items by religion and institution security level and provides that inmates may purchase religious property items from an approved vendor. The Department’s policy of permitting inmates to purchase items from a list of approved religious items available from a single vendor enables the Department to ensure consistency in the religious items it allows into its prisons, allows the Department to screen religious items for possible security concerns, decreases the likelihood of the introduction of contraband into the institutions through incoming property, and reduces the burdens on staff who must process and inspect all incoming property.

15. A copy of the Handbook is available to all Treatment Center residents the facility’s library. The Handbook set out the process an inmate must follow in order to be granted permission to acquire a religious item or religious practice not presently allowed by the Department. An inmate seeking a religious property item or religious practice not specified in the Handbook may submit his or her request on the Inmate Religious Services Request Form with supporting documentation to the Superintendent of an institution or his designee, and the Superintendent will forward the information, along with his or her recommendation, to the Religious Services Review Committee (“RSRC”).

16. The RSRC will review the request and make a formal determination to the Superintendent. The RSRC may seek further information regarding the request from a variety of sources, including the Department’s chaplains, and outside religious groups. 103 CMR

403.10(9). The RSRC is comprised of three Assistant Deputy Commissioners who represent the Department of Correction's penultimate security concerns and the Director of Program Services, who functions as chairperson of the committee. 103 CMR 403.10(9). All recommendations made by the RSRC regarding inmate requests for religious services and property are forwarded to the Commissioner for her final decision.

17. I am not aware of any Wiccans in Massachusetts who are available to volunteer to lead corporate worship services for the Wiccans at the Treatment Center. The Department's Director of Volunteer Services, William Milhomme has advised staff that there are no Wiccan volunteers currently working at any Department facility. I have not had a request for a volunteer from any current member of the Wiccan groups at the Treatment Center.

18. The Wiccans at the Treatment Center are provided with cake and juice for the celebration of the Sabbats. It is my understanding that during the period of time when I was temporarily reassigned from my duties as the Treatment Center's Director of Treatment to assist in the launch of the Department's computerized information system, from January, 2004 to May, 2004, there were several occasions in which, due to staff miscommunications, the Wiccans did not receive cake and juice for their Sabbats. The communication problems were resolved upon my return to my duties at the Treatment Center, and I have not been advised by plaintiff or any other Wiccan that the problem has continued.

19. Pursuant to the Handbook, Wiccans at the Treatment Center have access to a number of religious property items, including, Tarot cards, an altar cloth and altar bowl, runes and cloth bag, magic circle, crow feathers, a brass bell, worry stones, meditation tapes, candles and a wand for use in corporate worship. However, candles may only be used for corporate worship if a volunteer is present. The Treatment Center has several sets of CDs for use by Wiccans in corporate worship, including medication CDs and purchased six posters for use by

the Wiccans. Wiccans may also purchase medallions and prayer oil for individual practices. The plaintiff may also purchase books pertaining to Wiccan practices on his own through several approved booksellers. Requests for religious property not presently approved by the Department must be made through the RSRC process. 103 CMR 403.10(9) See Attachments B & C.

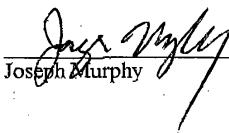
20. Pursuant to the Department's Inmate Management policy, 103 DOC 400.00 et seq., inmates are not permitted to be placed in a position of authority or control over other inmates. The purpose of this policy is to prevent any situation where an inmate may gain control over another inmate and uses the superior position to take advantage of the inmate, including seeking benefits, privileges or financial gains. Permitting an inmate to be placed in positions of authority over other inmates may enable the inmate to exert undue influence over other inmates. This can be especially problematic in the context of religious services and activities. Treatment Center residents are not permitted to lead any religious worship services. See 103 DOC 400.06.

21. I have reviewed the sign-up sheets for the SDP Wiccan weekly meetings for the past year. See Attachment D. The sign-up sheets show that plaintiff has not attended a single Wiccan meeting in the current year.

22. Some of the Treatment Center religious groups for the SDPs and the SPIs may meet more than twice a week where there are volunteers from the community who are willing to come to the Treatment Center and lead additional groups. Presently, there are three separate religious groups from the community who come in as volunteers and lead groups for the Protestant SDPs and SPIs at the Treatment Center: the Emmaus Bible Study groups, the Zion Bible Study groups and the Spanish-English services. There are no other religious volunteers who regularly assist religious groups at the Treatment Center.

23. For security reasons, including concerns for escape, no Treatment Center groups are permitted to meet outdoors.

Signed under the pains and penalties of perjury this 24 day of August, 2006.

  
\_\_\_\_\_  
Joseph Murphy

**ATTACHMENT A**

ROOM	TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
B-Corridor	8:30 9:00							
B-Corridor	9:00 9:30							Wiccans
B-Corridor	9:30 10:00				Victim Empathy II S. Corrigan			Wiccans
B-Corridor	10:00 10:30				Victim Empathy II S. Corrigan			Wiccans
B-Corridor	10:30 11:00				Victim Empathy II S. Corrigan			Wiccans
B-Corridor	11:00 11:30							
B-Corridor	11:30 12:00							
B-Corridor	12:00 12:30							
B-Corridor	12:30 1:00							
B-Corridor	1:00 1:30							
B-Corridor	1:30 2:00		Wiccans	Buddhist			Bible Study	
B-Corridor	2:00 2:30		Wiccans	Buddhist		Bible Study	Bible Study	
B-Corridor	2:30 3:00	Bible Study	Wiccans			Bible Study	Protestant	
B-Corridor	3:00 3:30	Bible Study	Wiccans			Bible Study	Worship Team	
B-Corridor	3:30 4:00	Bible Study	Wiccans				Protestant	
B-Corridor	4:00 4:30						Worship Team	
B-Corridor	4:30 5:00							
B-Corridor	5:00 5:30							
B-Corridor	5:30 6:00							
B-Corridor	6:00 6:30							
B-Corridor	6:30 7:00							
B-Corridor	7:00 7:30		Wiccans	Wiccans	Buddhist	Wiccans		Mormons
B-Corridor	7:30 8:00		Wiccans	Wiccans	Buddhist	Wiccans		Mormons
B-Corridor	8:00 8:30		Wiccans	Mormons				
B-Corridor	8:30 8:45		Wiccans	Mormons				

**B-CORRIDOR ROOM**

EXHIBIT

= CIVILS

= STATE



ROOM	TIME	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
D-Corridor	8:30 9:00	Muslim Service		Spanish Bible Study	Catholic Services	Wiccans	Choir	
D-Corridor	9:00 9:30	Muslim Service		Spanish Bible Study	Catholic Services	Wiccans	Choir	
D-Corridor	9:30 10:00	Muslim Service		Spanish Bible Study	Catholic Services	Wiccans	Choir	
D-Corridor	10:00 10:30	Muslim Service						
D-Corridor	10:30 11:00	Muslim Service						
D-Corridor	11:00 11:30							
D-Corridor	11:30 12:00							
D-Corridor	12:00 12:30							
D-Corridor	12:30 1:00							
D-Corridor	1:00 1:30	Muslim Service	Buddhist Service	Jehovah Witness Service	Native Amer. Council	Muslim Service 1st & 3rd Fri.	Catholic Prayer Group	
D-Corridor	1:30 2:00	Muslim Service	Buddhist Service	Jehovah Witness Service	Native Amer. Council	Muslim Service 1st & 3rd Fri.	Catholic Prayer Group	
D-Corridor	2:00 2:30	Muslim Service	Buddhist Service	Jehovah Witness Service	Native Amer. Council	Muslim Service 1st & 3rd Fri.	Catholic Prayer Group	
D-Corridor	2:30 3:00	Native Amer. Council	Native Amer. Council	Bible Study	Native Amer. Council		Native Amer. Council	Catholic Services
D-Corridor	3:00 3:30	Native Amer. Council	Native Amer. Council	Bible Study	Native Amer. Council		Native Amer. Council	Catholic Services
D-Corridor	3:30 4:00	Native Amer. Council	Native Amer. Council					
D-Corridor	4:00 4:30							
D-Corridor	4:30 5:00							
D-Corridor	5:00 5:30							
D-Corridor	5:30 6:00							
D-Corridor	6:00 6:30							
D-Corridor	6:30 7:00							
D-Corridor	7:00 7:30		Prayer Group	Prayer Group	Muslim Service	Rosary Group	Muslim Service	Jehovah Witness Bible Study
D-Corridor	7:30 8:00		Prayer Group	Prayer Group	Muslim Service	Rosary Group	Muslim Service	Jehovah Witness Bible Study
D-Corridor	8:00 8:30			Choir		Living with Christ Group	Prayer Group	Jehovah Witness Bible Study
D-Corridor	8:30 8:45			Choir		Living with Christ Group	Prayer Group	Jehovah Witness Bible Study

**D-Corridor Room**

Buddhist Volunteer 1st/3rd Tuesday



A handwritten signature in black ink, reading "Jim F." followed by the date "3/11/02".

**ATTACHMENT B**

**MASSACHUSETTS DEPARTMENT OF CORRECTION  
RELIGIOUS SERVICES HANDBOOK**

Kathleen M. Dennehy  
Commissioner

*Issued April 1999  
Revised March 2006*

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## WICCA

Wicca is the name of the contemporary neo-pagan religion, largely promulgated and popularized by the efforts of the retired British civil servant named Gerald Gardner. In the last few decades, Wicca has spread in part due to its popularity among feminists and others seeking a more woman-positive, earth-based religion. Like most neo-pagan spiritualities, Wicca worships the sacred as immanent in nature, drawing much of its inspiration from the non-Christian and pre-Christian religions of Europe.

In addition to its positive view of nature, many find Wicca more welcoming of women than other religions, with an emphasis on personal experience and a tolerance of other paths. As a whole, Wiccans value balance with a respect for diverse complexity, seeing sexuality and embodiment as essentially positive, spiritual gifts. There is a sense of personal connection to the divine life source, which is open to contact through "psychic power", mysticism or natural magic.

Although some Wiccans focus on particular gods from particular world mythologies, Wiccans may worship many gods by many different names. Most worship some form of the Great Goddess and her consort, the Horned God. Such duo-theistic forces are often conceived as embodying complementary polarities, not in opposition. The Goddess and God may be seen as associated with certain things but there are no hard and fast rules.

There are many forms of the Wiccan religion. Hereditary, Gardnerian, Alexandrian, Celtic, Traditionalist, Dianic, Eclectic, Faerie, and Shamanic are just some of the traditions, or denominations, of contemporary Wiccan spirituality. Within most Wiccan denominations there are groups as well as individual practitioners. Groups, sometimes called covens, differ widely in size, structure, purpose, orientation, symbology, ritual practices, and other ways. There is even more variation among those practicing the Craft on their own without being part of a coven that meets regularly. May forms of the Wiccan religion are initiatory; others are not. Initiatory practices vary from tradition to tradition and include initiations through dreams, initiations through vision quests, self-initiations, and initiations by teachers and groups.

Although there are many differences, there are also some spiritual practices and philosophies that Wiccans tend to have in common. Wiccans love and respect nature and seek to live in harmony with the rest of the ecosphere. Many Wiccans have personal communication and friendships with various plants, animals and other life forms. Ceremonies are held at new and full moon times and also at the eight seasonal festivals called Sabbats, spaced six to seven weeks apart throughout the year and coinciding with the Solstices, Equinoxes and midpoints between, usually called the Cross Quarters, on or about the first of February, May, August and November. Samhain, popularly known as Halloween, is the new year in most Wiccan traditions.

Some ritual items are common to almost every Wiccan tradition, such as the athame (ritual knife) and chalice (ritual cup). Others may be used by some traditions but not others: bells, brooms, candles, cauldrons, cords, drums, incense, jewelry, special plates, pentacles, scourges, statues, swords, staves and wand. The meaning of these items, their use and manufacture will differ among traditions and individuals. Usually a Wiccan ritual will involve some sort of creation of sacred space, invocation of divine power, sharing of dance/song/food or wine and a thankful farewell and ceremonial closing.

Rituals may be held at Wiccan sabbats or to mark life transitions such as births, coming-of-age, marriage, housewarmings, healings, deaths or other rites of passage.

There is no one bible or book of common prayer for all Wiccans and great value is placed on creativity, poetry and artful integration of different myths and ritual elements.

As part of their spiritual practice, many Wiccans develop their intuitive abilities and practice magic, directing psychic energy for particular healing and helping purposes. In working magic, Wiccans are to adhere to the Wiccan

rede, which is the central ethical law of the religion: "And it harm none, do what you will". Most Wiccans acknowledge that whatever magical force is sent out returns magnified to the sender. Wiccans do not perform evil magic and do not worship the devil or Satan. The Wiccan religion is pre-Christian and post-Christian, not anti-Christian.

**WICCA**

<b>1. HOLY DAYS/FESTIVALS:</b>	If requested, inmates who identify themselves as Wiccans should be allowed to celebrate the eight Sabbaths celebrated. The sabbats occur on the Solstices, the Equinoxes, and the cross quarter days. Samhain (Halloween) is also celebrated as the Wiccan New Year. If requested, Wiccans should be allowed to meet corporately and consume cake and juice to celebrate these holy days. <i>Please reference the Wiccan calendar in Section Four (IV).</i>
<b>2. PRIVATE WORSHIP:</b>	Not mandated.
<b>3. CORPORATE WORSHIP:</b>	Not mandated.
<b>4. HOLY BOOK:</b>	None.
<b>5. DIET:</b>	Not mandated.
<b>6. PRACTITIONERS:</b>	Not mandated.
<b>7. APPROVED ITEMS:</b>	Tarot cards* Medallion/Necklace* Prayer Oil* Altar bowls* Altar cloth* Runes* Crow/Raven feathers* Cloth bag (for runes)* Book of Shadows* Magic Circle* Brass bell* Worry stone* Meditation tapes* Candles* Wand*

- \* Tarot cards shall not exceed 78 cards in a deck and shall not exceed 3" in width and 5" in length. Tarot cards shall be white with colored imprints.
- \* The chain of the necklace shall be constructed of solid wood beads of a solid color (black or brown) or shall be a chain not exceeding 20" in length. The medallion attached to the chain shall not exceed 1/8" in thickness and 1 1/2" in diameter. This includes the pentagram and crescent moon medallion.
- \* Prayer oil shall be provided by an approved vendor in one 1 oz. or four 1/4 oz. labeled containers. Inmates shall maintain prayer oil in its original 1 oz. or four 1/4 oz. labeled plastic containers. Inmates shall not possess more than one 1 oz. or four 1/4 oz. Labeled plastic containers of prayer oil at one time. Prayer oil scents shall be limited to: **Musk, Rose, Jasmine, Frankincense, and Somali Rose.**
- \* Altar bowls must be plastic (in either blue or black) or wooden and be used for corporate worship only.
- \* Altar cloth shall not exceed 21" by 22" for corporate worship only.
- \* Runes must be made of clay or bone and come in a set of no more than 25.
- \* Crow/Raven feathers for corporate worship only.
- \* Cloth bag must be made of black cotton with drawstring top and measure 2" by 4".
- \* Book of Shadows shall be hardcover and shall not exceed 5 1/2" by 8 1/2".
- \* Magic Circle constructed by inmates; sheet and markers provided by Institution for corporate worship only.
- \* Pentagram charm necklace shall not exceed 20" in length. Medallion shall not exceed 1/8" in thickness and 1 1/2" in diameter.
- \* Brass bell must not exceed 1 1/2 " in height for corporate worship only.
- \* Worry stone must measure no more than 1 1/2" long and 1 1/4" wide, be of bone color, and used for corporate worship only.

- \* Meditation tapes for corporate worship only.
- \* Candles must not exceed 8" in height and shall be unscented in the colors of white, black, red, blue or silver. Use of candles (three candles only) must be supervised by a volunteer during corporate worship only.
- \* Wand must not exceed 18" in length and  $\frac{1}{2}$ -  $\frac{3}{4}$ " in diameter and be made of either wood or plastic for corporate worship only.

**ATTACHMENT C**

## Wiccan Corporate Worship Inventory

1	ALTAR CLOTH
11	BLACK FEATHERS
2	BRASS BELLS
4	WORRY STONES
1	TAROT CARD KIT
1	MEDITATION SET ( 1 BOOK,4 CD'S )
2	2 CD'S SET (ASTRAL PROJECTION SERIES,QABALA MEDITATION)
1	CD (ALCHEMY VII)
1	BOOK OF SHADOWS
2	ALTAR BOWLS
1	RUNES

*Revised August 1, 2006* 

**ATTACHMENT D**

## **MASSACHUSETTS TREATMENT CENTER**

## **PROGRAM :**

Swiss practices TIME: 7.00 pm to 8.45 pm

ATE/DAY: Sept wed 9-14-05  
IVL / STATE (CIRCLE ONE)

**NUMBER OF**

IV / STATE (CIRCLE ONE) 11-03 NUMBER OF  
OUTSIDE VOLUNTEERS: 8

**MASSACHUSETTS TREATMENT CENTER**PROGRAM : Wiccan TIME : 7:10 pm - 9:DATE/DAY : 9-20-05

CIVIL / STATE (CIRCLE ONE)

NUMBER OF

OUTSIDE VOLUNTEERS:

0

	NAME	ID #	UNIT
1	[REDACTED]	[REDACTED]	S2
2	[REDACTED]	[REDACTED]	N2
3	[REDACTED]	[REDACTED]	S2
4			
5			
6			
7			
8			
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25			

## **MASSACHUSETTS TREATMENT CENTER**

**'PROGRAM:** Vikram Practices **TIME:** 7 - 8:45 pm

DATE/DAY: Fri Sept 23 NUMBER OF  
AVAIL / STATE (CIRCLE ONE) OUTSIDE VOLUNTEERS

OUTSIDE VOLUNTEERS:

## **MASSACHUSETTS TREATMENT CENTER**

## **PROGRAM :**

## Wilson Practices

TIME: 7-8:45 pm

DATE/DAY:

**STATE:** ILLINOIS 10-505  
**IVILY STATE (CIRCLE ONE)**

**NUMBER OF**

**OUTSIDE VOLUNTEERS:**